

1616

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/020,798
Filing Date	11/30/2001
First Named Inventor	Cowan, Sui Man L.
Art Unit	1616
Examiner Name	Pryor, Alton N.
Attorney Docket Number	22112(2)

Total Number of Pages in This Submission

3

RECEIVED
APR 09 2003
TECH CENTER 1600/2500

ENCLOSURES (Check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Response to Missing Parts/Incomplete Application
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
<input type="checkbox"/> Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): |
|---|--|---|

Remarks

Response to Election Requirement.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Patricia A. Coburn, Esq. BattellePharma, Inc. 1801 Watermark Drive Suite 100 Columbus, Ohio 43215
Signature	<i>Patricia A. Coburn</i>
Date	<i>March 28, 2003</i>

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date:

03/28/2003

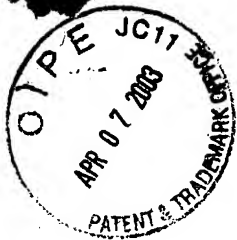
Typed or printed Odelia A. Baker

Signature *O. A. Baker*

Date 03/28/2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



ATTORNEY DOCKET NO: 22112(2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cowan, Sui Man L.	Art Unit: 1616
Serial No: 10/020,798	Examiner: Pryor, Alton N.
Filed: 11/30/2001	
For: Stable, Aerosolizable Suspensions of Proteins in Ethanol	

RECEIVED
APR 09 2003
TECH CENTER 1600/2900

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I. Traverse of Election Requirement

The Election Requirement set forth in paper No. 7, dated March 21, 2003 has been carefully considered and Applicant respectfully traverses the requirement on the grounds that the invention is directed to a stable suspension of a biologically active protein (Group I: Claims 1-5,7, 9, 10-21 and 34-35) and to a method of delivering such stable suspension (Group II: claims 22-33). The invention is not limited to a single protein but to the formulation, i.e., the stable suspension or method of delivering the stable suspension.

Applicant admits for the record that prior art disclosing a stable suspension of any biologically active protein would be relevant to the determination of the patentability of the invention disclosed and claimed herein.

If the claimed invention is restricted to a single protein Applicant would be forced to file literally hundreds of divisional/continuation applications to capture the invention as originally claimed. Applicant would be agreeable to restrict continued prosecution to the Claims of Group I and would file a divisional application covering the claims of Group II.

II. Election of Species

Applicant acknowledges that in order to completely respond to this Election Requirement, Applicant must make an election even if such requirement is traversed. Applicant hereby elects the species of Claim 16 (Group I) and Claim 25 (Group II). Table 1 indicates all claims that read on Claim 16 and Claim 25 assuming that such claims were amended to correct dependency.

TABLE 1

Claims Readable on Claim 16		Claims Readable on Claim 25	
Claim No.	Claim No.	Claim No	Claim No.
2	15	28	
3	18	29	
4	19	30	
10	20	31	
11	21	32	
12		33	
13			
14			

Respectfully submitted,

Dated: March 27, 2003

By: Patricia A. Coburn
Patricia A. Coburn

Registration No. 28,594
Attorney of Record

BattellePharma, Inc.
1801 Watermark Dr., Suite 100
Columbus, OH 43215-1037

(614) 340-2358 Office
(614) 340-2320 Fax
coburn@battellepharma.com